

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at KNOXVILLE

JERRY DOWNS)	
)	
<i>Petitioner,</i>)	
)	
v.)	No. 3:07-cv-115
)	<i>Phillips</i>
JAMES DAVIS, Warden)	
)	
<i>Respondent.</i>)	

MEMORANDUM OPINION

This is a *pro se* petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2254, in which petitioner is challenging his 1985 Knox County convictions for armed robbery and aggravated assault. The convictions were affirmed on direct appeal and, in 1990, petitioner was denied post-conviction relief. *Downs v. State*, C.C.A. No. 1304, 1990 WL 113282 (Tenn. Crim. App. August 9, 1990), *perm. app. denied, id.* (Tenn. November 13, 1990). Petitioner was ordered to show cause why this petition should not be dismissed as time-barred and he has failed to respond to the show cause order.

There is a "1-year period of limitation [that] shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court." 28 U.S.C. § 2244(d)(1). The limitation period generally runs from the date on which the judgment of conviction became final. Petitioner's convictions became final over fifteen (15) years ago.

Accordingly, his habeas corpus petition is barred by the statute of limitation. *See Day v. McDonough*, 126 S. Ct. 1675 (2006) (a district court may *sua sponte* dismiss a habeas corpus petition as untimely, after giving the petitioner an opportunity to show cause why the case should not be dismissed as time-barred).

The petition for habeas corpus relief will be **DENIED** and this action **DISMISSED**. Rule 4 of the Rules Governing Section 2254 Cases In The United States District Courts. A certificate of appealability **SHALL NOT ISSUE** in this action. 28 U.S.C. § 2253(c); Rule 22(b) of the Federal Rules of Appellate Procedure. The court will **CERTIFY** that any appeal from this action would not be taken in good faith and would be totally frivolous. *See* Rule 24 of the Federal Rules of Appellate Procedure. The court will further **DENY** petitioner leave to proceed *in forma pauperis* on appeal.

AN APPROPRIATE ORDER WILL ENTER.

s/ Thomas W. Phillips
United States District Judge